

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
901 NORTH 5TH STREET  
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF

National Carriers, Inc.

Respondent

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Docket No. CAA-07-2002-0111

CONSENT AGREEMENT  
AND FINAL ORDER

PRELIMINARY STATEMENT

This proceeding for the assessment of civil penalties was initiated pursuant to Section 113(d) of the Clean Air Act ("CAA"), as amended, 42 U.S.C. § 7413(d), when Complainant issued to Respondent a Complaint and Notice of Opportunity for Hearing.

The Complaint served as notice that Complainant had reason to believe that Respondent had violated the Stratospheric Ozone Protection requirements at 40 C.F.R. Part 82, Subpart B and Respondent was therefore in violation of Section 609 of the CAA, 42 U.S.C. § 7671h and as notice of Complainant's intent to issue an order assessing penalties for such violations. A proposed civil penalty was set forth in the Complaint for such violations.

The parties subsequently entered into negotiations in an attempt to resolve the allegations of the Complaint; the Consent Agreement set forth below is the result of such negotiations with Respondent.

## CONSENT AGREEMENT

1. For purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the factual allegations of the Complaint, including Counts I and II.

2. Respondent hereby explicitly waives its right to contest the factual allegations and to appeal the Final Order accompanying this Consent Agreement.

3. For purposes of this proceeding only, Respondent consents to the issuance of the Order set forth below and consents to the payment of a civil penalty in the amount hereinafter recited.

4. Failure to timely pay any portion of the civil penalty assessed may result in commencement of a civil action in Federal District Court to recover the full amount due, along with penalties and accumulated interest at the rate of 6% per annum pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. 7413(d)(5).

5. No portion of any civil penalty, interest or penalties paid by Respondent pursuant to the requirements of this Consent Agreement and Final Order may be claimed by Respondent as deductions for federal, state, or local income tax purposes.

6. Nothing contained in this Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.

7. This Consent Agreement and Final Order shall resolve all violations of 40 C.F.R Part 82 arising from the transactions and occurrences alleged in the Complaint.

8. Each signatory to this Consent Agreement certifies that he or she is fully authorized to enter into the terms of this Consent Agreement and Final Order.

FINAL ORDER

1. Respondent shall pay a mitigated civil penalty of Seventeen Thousand Five Hundred Dollars (\$17,500) within thirty (30) days of the effective date of this Order.

2. Payment shall be by cashier's or certified check, made payable to the United States Treasury, shall bear the docket number for this matter, and shall be mailed to:

EPA - Region VII  
Regional Hearing Clerk  
P.O. Box 360748M  
Pittsburgh, Pennsylvania 15251

3. Each party shall bear its own costs and attorneys' fees in connection with this action.

In the Matter of  
National Carriers, Inc.  
Docket No. CAA-07-2002-0111

COMPLAINANT:  
UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY

By: Henry F. Rompage  
Henry F. Rompage  
Office of Regional Counsel  
EPA, Region VII

Date: 7-2-02

RESPONDENT:  
NATIONAL CARRIERS, INC.

By: [Signature]

Title: Vice President

Date: 6/29/2002

IT IS SO ORDERED. This Order shall become effective immediately.

Karina Borromeo July 2, 2002  
Karina Borromeo  
Regional Judicial Officer  
U.S. Environmental Protection  
Agency--Region VII

IN THE MATTER OF National Carriers, Inc., Respondent  
Docket No. CAA-07-2002-0111

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Henry F. Rompage  
Senior Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail,  
Return Receipt Requested, to:

Thomas W. Wiseman  
Scopelitis, Garvin, Light & Hanson  
10 W. Market Street, Suite 1500  
Indianapolis, Indiana 46204


and

Copy by First Class Pouch Mail to:

Honorable Susan L. Biro  
Chief Administrative Law Judge  
U. S. Environmental Protection Agency  
401 M Street, S.W./Mail Code 1900L  
Washington, D. C. 20460

Honorable William B. Moran  
Administrative Law Judge  
U. S. Environmental Protection Agency  
401 M Street, S.W./Mail Code 1900L  
Washington, D. C. 20460

Dated: 7/3/02

  
Kathy Robinson  
Regional Hearing Clerk